

**DURHAM, NORTH CAROLINA
MONDAY, SEPTEMBER 20, 2004
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: Interim City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

The Mayor presented Stuart Carson with a certificate and the 2004 Diversity Change Agent Award in recognition of his dedication to promoting diversity in the workplace. Also, he read proclamations proclaiming Minority Enterprise Development Week, International Car-Free Day, Litter Sweep Week and Resurrect American Dream Day.

Council Member Catotti welcomed the new Housing & Community Development Director Mike Barrows.

Council Member Clement thanked individuals who spearheaded the Ice Cream Community Social at Lyon Park to meet the new President-Elect Dr. and Mrs. Brodhead of Duke University. Also, he announced he participated in the Human Relations Commission orientation session last Friday.

Interim City Manager Baker introduced family members that were present at the Council Meeting.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Relative to GBA #32 [Crime Report January –June 2004], Interim City Manager Baker noted a presentation will be given by Police Chief Chalmers at 8:30 p.m. He requested that GBA #39 [Condemnation of Property – Ganyard Farm, LLC] be referred to the September 23, 2004 Work Session and provided an amended item for Supplemental #44 [Capital Improvements Project Ordinance] that reflects the decisions made at the last Work Session.

MOTION by Council Member Clement seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There were no priority items from the City Attorney.

September 20, 2004

City Clerk Gray informed Council that the protest petition filed against GBA #34 [Rezoning Case P04-19 – Infinity Heights] is insufficient because it was not received prior to the August 2, 2004 public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to accept the City Clerk's priority item was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items # 18, 19, 20, 21, 23, 24, 25, 26 and 27 were pulled.

MOTION by Council Member Stith seconded by Council Member Clement to approve the Consent Agenda as amended was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Clement to approve City Council minutes for the following meetings; and

August 16, 2004 Special Meeting
August 16, 2004 Regular Meeting
August 19, 2004 Special Meeting

To approve City Council action taken at the August 19, 2004 City Council Work Session was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DESIGNATION OF VOTING DELEGATES – NORTH CAROLINA LEAGUE OF MUNICIPALITIES ANNUAL CONFERENCE – OCTOBER 24-26, 2004 – RALEIGH, NORTH CAROLINA

MOTION by Council Member Stith seconded by Council Member Clement to appoint Mayor Pro Tempore Cole-McFadden as the voting delegate and Council Member Catotti as the alternate voting delegate to attend the North Carolina League of Municipalities Annual Business Meeting on Monday, October 25, 2004 was approved at 7:33 p.m. by

September 20, 2004

the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DESIGNATION OF VOTING DELEGATE - NLC'S ANNUAL CONGRESS OF CITIES AND EXPOSITION, NOVEMBER 30 - DECEMBER 4, 2004, INDIANAPOLIS, INDIANA

MOTION by Council Member Stith seconded by Council Member Clement to appoint Mayor Pro Tempore Cole-McFadden as the voting delegate to attend the National League of Cities' Annual Business Meeting on Saturday, December 4, 2004 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM AREA TRANSIT AUTHORITY – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept applications for a citizen to fill one (1) vacancy for a Alternate Member on the Durham Area Transit Authority with a term expiring March 1, 2007 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept applications for citizens to fill three (3) City-Wide Vacancies on the Citizens Advisory Committee with Terms Expiring on June 30, 2005 and June 30, 2006 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept applications for citizens to fill two (2) vacancies with terms to expire on August 31, 2007 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 20, 2004

**SUBJECT: HISTORIC PRESERVATION COMMISSION – RECEIPT AND
ACCEPTANCE OF APPLICATIONS**

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept applications for citizens to fill two (2) vacancies for one (1) At-Large member representing Historian and one (1) Regular member representing Developer/Builder with terms expiring on September 1, 2007 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAYOR’S NOMINEES FOR REAPPOINTMENT TO THE
DURHAM BOARD OF ADJUSTMENT AND THE HOUSING
APPEALS BOARD**

MOTION by Council Member Stith seconded by Council Member Clement to reappoint Spurgeon S. Thurston -Regular Member (Mayor's Appointee) to the Durham Board of Adjustment with a term to expire on December 31, 2005 and to reappoint Lucy Virginia Zastrow - Regular Member (Mayor's Appointee) to the Housing Appeals Board with a term to expire on December 31, 2005 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to the contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amount
Fulton Waddell	Basketball Official	P&R	\$ 3,000.00
Waldo Rogers	Basketball Official	P&R	\$ 2,500.00
Adrienne Covington	Soccer Official	P&R	\$ 2,000.00
Durham Technical Community College	ABE/GED classes	HR	\$ 2,760.00
Kendra Timberlake	Prep school for social skills	P&R	\$ 500.00
NC Central University	Project Safe Neighborhood Advertisements	Police	\$ 8,550.00

September 20, 2004

James Duncan & Associates	CT Amend.- Extending expiration date until 3/31/06	Planning	N/A
Choice Point Business & Gov't Ser.	Nationwide Public Record & Document Retrieval	Police	\$ 4,000.00

SUBJECT: BID REPORT - JULY 2004

MOTION by Council Member Stith seconded by Council Member Clement to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2004 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

August 26, 2004

MEMO TO: Patrick Baker, Interim City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2004.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Replace Roof Top Gas Packs & Furnace at Fire Station No. 12

Purpose of Bid:

Comments:

Opened: July 14, 2004

Bidders:	Carolina Air Conditioning	*	\$11,480.00
	Durham, NC		
	Comfort Engineers	\$11,970.00	
	Durham, NC		

*Awarded based on: X Low Bid _____ Other (See Comments)

September 20, 2004

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	2	10%
Total # Females	2	10%	# White Males	14	70%
Total # Males	18	90%	# Other Males	2	10%
			# Black Females	0	0%
			# White Females	2	10%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item

2. Bid: Perkin Elmer Maintenance/Repair Agreement

Purpose of Bid: This maintenance agreement is for the South Durham WRF laboratory equipment to analyze metal in the wastewater. This is a twelve month maintenance agreement.

Comments: Perkin-Elmer is the sole source for parts, sales and service of Perkin-Elmer Equipment.

Opened: July 28, 2004

Bidders: Perkin-Elmer Instruments *\$17,232.00
Norwalk, CT

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	941		# Black Males	32	3%
Total # Females	197	20%	# White Males	635	67%
Total # Males	744	80%	# Other Males	77	8%
			# Black Females	26	3%
			# White Females	137	15%
			# Other Females	34	4%

The SDBE Data Base was used in the solicitation of bids for this item

3. Bid: Mobile Tracking Software and Service

Purpose of Bid: To provide DATA with mobile tracking units and service for their new fleet of buses.

September 20, 2004

Comments: Preferred Communications is the sole source for this software and service.

Opened: July 28, 2004

Bidders: Preferred Communications, Inc. *\$30,202.20
Creedmoor, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	5		# Black Males	0	0%
Total # Females	2	40%	# White Males	3	60%
Total # Males	3	60%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	40%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item

4. Bid: Cisco Backbone Network Equipment Maintenance Agreement

Purpose of Bid: To provide the Technology Solutions Department with equipment maintenance agreement to cover its Cisco network equipment.

Comments:

Opened: July 20, 2004

Bidders:	SBC DataComm	*	\$18,711.05
	Durham, NC		
	4Front Systems		\$19,272.60
	Morrisville, NC		
	Verizon		\$20,442.60
	Durham, NC		

*Awarded based on: ☒ Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	167,000		# Black Males	18,370	11%
Total # Females	80,160	44%	# White Males	55,110	33%
Total # Males	86,840	56%	# Other Males	20,040	12%

September 20, 2004

# Black Females	15,030	9%
# White Females	48,430	29%
# Other Females	10,020	6%

LOCATION OF COMPANY PERFORMING CONTRACT
Durham, NC

Total Workforce	17		# Black Males	2	11%
Total # Females	4	24%	# White Males	11	65%
Total # Males	13	76%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	4	24%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: BIDS – THREE SEMI-AUTOMATED SIDE LOADING REFUSE COLLECTION VEHICLES - CAROLINA ENVIRONMENTAL SYSTEMS, INC.

MOTION by Council Member Stith seconded by Council Member Clement to accept the bid from Carolina Environmental Systems, Inc., in the amount of \$553,200 for providing the City with three Semi-Automated Side Loading Refuse Collection Vehicles; and

To authorize the City Manager to enter into a contract with Carolina Environmental Systems, Inc., in the amount of \$553,200 for providing the City with three Semi-Automated Side Loading Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REIMBURSEMENT RESOLUTION FOR THE PROPOSED RADIO SYSTEM UPGRADE

To adopt a resolution declaring the intent of the City of Durham to reimburse itself for capital expenditures incurred in connection with the upgrading of certain radio and 911

September 20, 2004

computer systems and the acquisition of a radio tower site from the proceeds of certain tax-exempt obligations to be executed and delivered in calendar year 2005.

**Note: This item was approved at the 9/9/04 Work Session with a vote of 7/0.
Resolution #9149**

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF
399.91 LINEAR FEET OF AN UNNAMED ALLEY, LOCATED
SOUTH OF GREEN STREET AND EAST OF NINTH STREET
(SC04-05)**

MOTION by Council Member Stith seconded by Council Member Clement to adopt a resolution to set a public hearing on the proposed closing of 399.91 linear feet of an unnamed alley located south of Green Street and east of Ninth Street for October 4, 2004 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9150

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF A
197 LINEAR FOOT PORTION OF BLACKWELL STREET (SC04-
06)**

MOTION by Council Member Stith seconded by Council Member Clement to adopt a resolution to set a public hearing on the proposed closing of a 197 linear foot portion of Blackwell Street for October 4, 2004 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9151

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF
248.13 LINEAR FEET OF GEORGE STREET, LOCATED NORTH
OF CHEEK ROAD AND EAST OF ROANE STREET (SC04-07)**

MOTION by Council Member Stith seconded by Council Member Clement to adopt a resolution to set a public hearing on the proposed closing of 248.13 linear feet of George Street, located north of Cheek Road and east of Roane Street for October 4, 2004 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 20, 2004

Resolution #9152

SUBJECT: PRELIMINARY PLAT FOR CARILLON SUBDIVISION – CASE D04-081

MOTION by Council Member Stith seconded by Council Member Clement to approve a major site plan and preliminary plat for “Carillon Subdivision”, submitted by The John R. McAdams Company, Inc. on behalf of D.R. Horton, for 163 single-family residential lots on an approximately 102.30 acre site zoned R-20 and a landscape variation to waive shrubs in buffers wider than 70 feet, located on the east side of Randolph Road, north of Pickett Road and south of Stonegate Drive, PIN 0801-03-41-4803, 0801-03-31-2843, City Atlas Page 27, Blocks B-3, C-3 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – EMILY KRZYZEWSKI FAMILY LIFE CENTER (D04-104)

MOTION by Council Member Stith seconded by Council Member Clement to approve a major site plan for the “Emily Krzyzewski Family Life Center”, submitted by Ballentine Associates, P.A., on behalf of The Emily Krzyzewski Family Life Center, Inc., for a 31,300 square foot recreation facility on a 7.53 acre site zoned NC and R-3, located at the northeast corner of West Chapel Hill Street and South Buchanan Boulevard, PIN 0821-07-57-2817, 0821-07-58-5119, City Atlas Page 23, Block C-2 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INTER-LOCAL AGREEMENT FOR THE DEVELOPMENT OF A 10-YEAR PLAN TO END HOMELESSNESS IN DURHAM BETWEEN THE CITY OF DURHAM AND THE COUNTY OF DURHAM DEPARTMENT OF SOCIAL SERVICES

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute an Inter-local Agreement with the County of Durham for its Department of Social Services to coordinate the development of a 10-Year Plan to End Homelessness in an amount not to exceed \$25,000; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 20, 2004

**SUBJECT: CAPITAL PROJECT ORDINANCE AMENDMENT TO INCREASE
THE FUNDING FOR CONSTRUCTION AT DUKE PARK**

MOTION by Council Member Stith seconded by Council Member Clement to adopt an ordinance amending the Capital Project Ordinance, Fiscal Year 2004-05, as amended, the same being ordinance #12972, for the purpose of increasing the budget for the construction of park facilities at Duke Park by allocating \$133,527 from the West Chapel Hill Rd. Park (Project # 12) to the project and by allocating \$107,856 from the Duke Park Sprayground (Project # 8) to the Duke Park project (Project #6) was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #13006

**SUBJECT: CONTRACT SW-17 – PARKWOOD PHASE II, WATTS STREET,
WOODCROFT PARKWAY SIDEWALKS AND KNOX/WATTS
STREETS TRAFFIC CIRCLE – HOLMES CONTRACTING, INC.**

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a contract with Holmes Contracting, Incorporated for Contract SW-17 Parkwood Phase II, Watts Street, and Woodcroft Parkway Sidewalks, and Knox/Watts Streets Traffic Circle in the amount of \$159,999; and

To establish a contingency fund for Contract SW-17 of \$23,999.85; and

To authorize the City Manager to negotiate change orders for Contract SW-17 provided that the cost of all change orders does not exceed \$23,999.85 and the total project cost does not exceed \$183,998.85 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER & SANITARY SEWER SYSTEMS GIS DEVELOPMENT –
CONTRACT AMENDMENT - BERRYMAN & HENIGAR, INC.**

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute an amendment to the contract in an amount not to exceed \$150,000 with Berryman & Henigar, Inc. for the Water & Sanitary Sewer Systems GIS Development; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at

September 20, 2004

7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: EPLUS GROUP, INC. END OF LEASE OPTIONS FOR
COMPUTER LEASE AGREEMENT NCM121-100, 101, 102, 103**

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a 12 month extension of the computer lease agreement with ePlus Group, Inc. in the amount of \$126,724.00; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: LILLIAN LENNON

MOTION by Council Member Stith seconded by Council Member Clement to receive comments from Lillian Lennon regarding a City Small Business Loan was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SALE OF PROPERTY AT 1806 NORTHGATE STREET - JEAN
KIBLER**

To accept Jean Kibler's offer of \$64,900 to purchase the property at 1806 Northgate Street; and

To authorize the City Manager to sell and the Mayor to convey the property by a non-warranty deed.

Note: This item was approved at the 9/9/04 Work Session with a vote of 6/1.

**SUBJECT: SALES AND MARKETING FIRM – BARNES AVENUE
REDEVELOPMENT PROJECT - CENTURY 21 FOUR STAR
REALTY**

September 20, 2004

To execute a contract with Century 21 Four Star Realty to provide marketing activities for the Barnes Avenue Redevelopment project in an amount not to exceed \$25,000 from 1996 Housing Bond funds designated for the Barnes Avenue Initiative; and

To execute a contract with Century 21 Four Star Realty to market and sell forty seven units in the Barnes Avenue Redevelopment project; and

To modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

Note: This item was approved at the 9/9/04 Work Session with a vote of 6/1.

[GENERAL BUSINESS AGENDA]

**SUBJECT PROPOSED CONDEMNATION OF PROPERTY FOR TURN
LANES ON HIGHWAY 98; GANYARD FARM, LLC -
LAURIETTE WEST**

(A)

To adopt a “Resolution Authorizing Condemnation of Property for the Highway 98 Turn-lane Project”; and

To authorize Ganyard Farm, LLC to settle the condemnation action(s) by payment from its funds of whatever additional sum(s) that Ganyard Farm, LLC finds to be satisfactory on terms and conditions acceptable to Ganyard Farm, LLC and the City Manager in consultation with the City Attorney, provided all monies are paid by Ganyard Farm, LLC;

To authorize the City Manager to execute the Agreement between Ganyard Farm, LLC and the City of Durham on Payment of Eminent Domain Expenses; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement.

(B)

To authorize the City Manager to enter into a contract with Lauriette West for the appraiser of Condemnation of Property for the Highway 98 Turn lane Project in the amount of \$6,850; and

September 20, 2004

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

**Note: Item A was referred to the September 23, 2004 Work Session.
Item B was approved at the 9/9/04 Work Session with a vote of 6/1.**

**SUBJECT: AMEND GENERAL CAPITAL IMPROVEMENTS PROJECT
ORDINANCE FOR HOUSING BOND FUND**

To adopt an ordinance amending General Capital Improvement Project Ordinance, Fiscal Year 2004-05, as amended, the same being ordinance #12972 for the purpose of recognizing \$240,000 of Program Income from the Housing Bond Fund increasing the appropriation from \$48,000,750 to a total appropriation of \$48,240,750.

**Note: This item was approved at the 9/9/04 Work Session with a vote of 5/2.
Ordinance #13004**

**SUBJECT: ORDINANCE TO INCREASE THE MOTOR VEHICLE LICENSE
TAX**

To adopt an Ordinance to Amend Section 20-180 of the City Code in Order to Increase the Motor Vehicle License Tax from \$5 to \$10, effective October 1, 2004; and

To adopt an Ordinance Amending the 2004-2005 City of Durham Budget Ordinance, the Same Being Ordinance 12961.

Public Works Director Katie Kalb reported at the present time a plan has not been finalized with the Durham Public Schools to provide additional school service. She noted staff is recommending that Council approve the item as printed and staff will be proceeding with the free fare for senior citizens starting January 1, 2005.

Council Member Stith noted he cannot support this item expressing concern with the double car registration fee, no plan on how the revenues will be expended and on what economic contribution the schools would be willing to make.

Mayor Bell noted he could not support this item unless there is a plan from the schools.

Council Member Clement provided background information on this item.

A motion was made by Council Member Clement seconded by Council Member Catotti to approve the item as printed.

September 20, 2004

Mayor Pro Tempore Cole-McFadden noted she cannot support this item tonight and suggested that it be referred back to a Work Session for a definitive plan.

Interim City Manager Baker requested that this item be deferred until the City receives something definitive from the school system.

Council Member Clement withdrew his original motion.

Council Member Catotti requested that information be brought back to Council on Durham Public Schools' pilot plan for bus service.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to refer this item back to the administration was approved at 7:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

**SUBJECT: TEXT AMENDMENT – SIGN STANDARDS IN THE
DOWNTOWN DESIGN OVERLAY AND GENERAL SIGN
STANDARDS (TC03-13)**

To receive public comment on Zoning Text Amendment TC03-13 (Sign Standards in the Downtown Design Overlay and General Sign Standards), and

To adopt an ordinance amending the Zoning Ordinance to incorporate the changes proposed by TC03-13.

Planning Department Recommendation: Denial

Zoning Committee Recommendation and Vote: Approval – 3-2

City/County Planning Director Frank Duke briefed Council on the text amendment requested by University Ford. He noted this item was heard on May 3; continued to the June 7, August 2 and September 20 City Council Meetings. He noted staff has recommended denial and the Zoning Committee recommended approval.

Council Member Stith asked staff to brief Council on the status of the right-of-way issue.

City/County Planning Director Frank Duke stated NCDOT would not allow the City to take responsibility of the right-of-way, but have worked out an arrangement with American Tobacco to deal with that issue.

Mayor Bell opened the public hearing.

September 20, 2004

Patrick Byker, representing the applicant, noted University Ford had removed their tall sign and put in a 16-footer. He made comments on the façade on the building and asked Council to monitor the right-of-way clean up effort.

Mayor Bell declared the public hearing closed.

Council Member Brown made comments on the façade renovation.

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on Zoning Text Amendment TC03-13 (Sign Standards in the Downtown Design Overlay and General Sign Standards), and

To adopt an ordinance amending the Zoning Ordinance to incorporate the changes proposed by TC03-13 **FAILED** at 7:50 p.m. by the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

SUBJECT: REZONING MATTER CASE P04-19 – INFINITY HEIGHTS - PARK LAND DEVELOPMENT, LLC – NORTH SIDE OF INFINITY ROAD, EAST OF ROXBORO ROAD AND WEST OF STEPHENS LANE

To receive public comment on rezoning Case P04-19 (Infinity Heights); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P04-19 out of R-20; E-B and placing same in PDR 3.65 E-B.

Note: This case was continued by City Council on August 2, 2004. As of this date, no revisions have been reported by the applicant.

The City Clerk noted the protest petition was insufficient because it was not received prior to the August 2, 2004 public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He stated this morning he received comments from Council Member Catotti indicating the applicant had made changes to the development plan. He noted he spoke to the applicant and based on the staff's inability to review those items staff would have to recommend denial or defer this item to allow staff an opportunity to review changes that were presented electronically to members of Council, but the applicant indicated they would prefer to have a vote on this item tonight.

Mayor Bell opened the public hearing.

Proponent

September 20, 2004

Patrick Byker, representing the applicant, spoke in support of this rezoning. He made comments on changes requested from a representative of Stephens Woods and the September 1st meeting held with the neighborhood. Mr. Byker highlighted changes the applicant has agreed to make: 14% reduction in homes, crosswalks and pedestrian signage; \$5,000 offer to Durham Parks & Recreation Department to improve existing park and the issue concerning tree cutting.

Opponents

Dr. Lisa Hightow, of 8 Danforth Place, spoke in opposition to this rezoning. She noted she fell in love with the neighborhood and expressed concern with empty townhomes, the traffic on Infinity Road and the speed of cars in the neighborhood.

Beth Gettys Sturkey, of 3 Wheatstone Court, expressed concern with this rezoning stating the increased traffic is taking a stressed situation and making it worst and a concern with the air quality.

Christopher Wratney, of 600 Flagstone Way, urged Council to vote against this rezoning request, expressed density issues and noted a TIA is needed.

David Wiehle, of 4911 Stephens Lane, made comments in opposition to this rezoning request.

LaVonnia Allison, representing DCABP, expressed quality of life, floodplain and school capacity concerns.

Lugenia Mason, of 122 Omega Road, spoke in opposition to this rezoning noting the traffic is very bad and urged Council to not approve this request.

Sheronda Smith, of 121 Omega Road, spoke against this rezoning. She urged Council to rethink this rezoning expressing concern for the safety of the community and the increase traffic.

Larry Holt, of 5110 Stardust Drive, expressed opposition to this rezoning. He urged Council to vote against this rezoning and to address the traffic issue.

Rebuttal

Patrick Byker, representing the applicant, made comments on the traffic condition and noted this is a very smart growth oriented project. He shared a smart growth handout with Council from EPA and discussed reasons why Council should support this project commenting on the compact building design, mixed land uses, open space, increase in DATA ridership, decrease in density, lot sizes and because it is in compliance with the small area and comprehensive plans.

September 20, 2004

City/County Planning Director Frank Duke noted the site plan previously approved for West Point Village has expired.

Mayor Pro Tempore Cole-McFadden noted she is very hesitant about this project because of the traffic conditions in the area. She asked staff when would a traffic impact analysis be warranted.

City/County Planning Director Frank Duke noted single-family residential under the current ordinance does not require a TIA.

Council Member Brown expressed concern with the traffic, the West Point Village proposal in which the applicant was to do major work at Infinity Road may not take place and the problematic intersection at Infinity and Roxboro Roads. Also, he spoke in support of deferring this item.

Council Member Catotti expressed concern with the traffic, road capacity, density and lots being in the floodplain. She noted changes need to be worked out with the developer and neighborhoods prior to going to the Planning Commission and that she would be voting against this item.

Council Member Clement spoke in support of deferring this item.

Mayor Bell declared the public hearing closed.

A motion was made by Council Member Catotti seconded by Council Member Stith to approve the item as printed.

A substitute motion was made by Council Member Clement to refer this item back to the Planning staff for additional consideration of the changes made by the developer. Motion dies for a lack of a second.

MOTION by Council Member Catotti seconded by Council Member Stith to receive public comment on rezoning Case P04-19 (Infinity Heights); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P04-19 out of R-20; E-B and placing same in PDR 3.65 E-B **FAILED** at 8:37 p.m. by the following vote: Ayes: Council Member Clement. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Stith. Absent: None.

SUBJECT: INITIAL ZONING P03-41 – WOODLANDS PRESERVE SNOW HILL – BEMAC PARTNERS AND RL HORVATH AND ASSOCIATES, INC. – SOUTH SIDE OF SNOW HILL ROAD, WEST OF KOBACK DRIVE AND NORTH OF TORREDGE ROAD

September 20, 2004

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comment on initial zoning Case P03-41 (Woodlands Preserve Snow Hill); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-20; F/JB zoning for the property described in the staff report was approved at 8:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING P03-64 – DANIEL TRACT – DORIS DANIEL, A. WAYNE DANIEL, DEBORAH HUNT AND BOBBY HUNT – EAST SIDE OF POPE ROAD, NORTH OF EPHEBUS CHURCH ROAD AND SOUTH OF BAKER’S MILL ROAD

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comment on initial zoning Case P03-64 (Daniel Tract); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD, R-20; MTC, F/J-B zoning for the property described in the staff report was approved at 8:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING P03-60 – TECHNOLOGY PARK NORTH – BANK OF AMERICA AND WITHERS & RAVANEL – NORTHWEST CORNER OF T W ALEXANDER DRIVE AND PAGE ROAD

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

September 20, 2004

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on initial zoning Case P03-60 (Technology Park North); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish I-1, I-2 zoning for the property described in the staff report was approved at 8:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[SUPPLEMENTAL ITEM]

**SUBJECT: AMEND GENERAL CAPITAL IMPROVEMENTS PROJECT
ORDINANCE FOR HOUSING BOND FUND**

Council Member Best raised a concern with the issue of loan repayments.

Council Member Stith noted he cannot support this item expressing concern with the program income.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an ordinance amending General Capital Improvement Project Ordinance, Fiscal Year 2004-05, as amended, the same being ordinance #13004 for the purpose of recognizing \$2,260,000 of Program Income from the Housing Bond Fund, increasing the total authorized budget from \$48,240,750 to \$50,500,750 was approved at 8:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

Ordinance #13007

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: USA OLYMPIC BASEBALL TEAM OFFICES AND
WATERPROOFING, AT THE DURHAM BULLS ATHLETIC
PARK - L.A. DOWNEY & SON, INC.**

To authorize the City Manager to execute the lease agreement between the City of Durham and USA Baseball; and

To authorize the City Manager to enter into a Contract L.A. Downey & Son, Inc., for the amount of \$326,890; establish a contingency of \$32,689 for a total of \$359,579; and

September 20, 2004

To authorize the City Manager or his designee to negotiate and execute change orders to the contract for construction provided the total cost of all change orders does not exceed \$32,689 and the total cost of the project does not exceed \$359,579; and

To authorize the City Manager to modify either agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement.

Victoria Peterson expressed concern with the amount of money for this item and with the Club House that has been removed out of the agreement.

General Services Manager Mark Greenspan noted the Club House (locker room) was deleted at the request of USA Baseball and a great deal of the cost is deferred maintenance being paid for out of the baseball fund and other funding source is through capital project funds.

Mayor Bell asked that this item be referred to Thursday's Work Session to identify source of funds for this matter.

Council held discussion on the lease agreement for office space, debt service, 25-cent surcharge and the costs for deferred maintenance.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to refer this item to the September 23, 2004 Work Session was approved at 9:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: RADIO SYSTEM UPGRADE PURCHASE – MOTOROLA -
DURHAM COUNTY**

Victoria Peterson made comments on the radio system and funding.

To authorize the City Manager to enter into an agreement with Motorola for the purchase and installation of the SMARTNET 4.1 system upgrade in the amount of \$7.2 million; and

To adopt an ordinance amending general capital improvement project ordinance, Fiscal Year 2004-05, as amended, the same being ordinance #12972 for the purpose of adding \$7,920,000 to upgrade radio infrastructure; and

To establish a project contingency in the amount of \$720,000 for any unforeseen project related expenses, for a total project cost not to exceed \$7,920,000; and

To execute the interlocal agreement with Durham County; and

September 20, 2004

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement.

**Note: This item was approved at the 9/9/04 Work Session with a vote of 7/0.
Ordinance #13005**

**SUBJECT: SUB-RECIPIENT AGREEMENT FOR FY 2004-2005 WITH THE
DURHAM AFFORDABLE HOUSING COALITION, INC.**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a performance based sub-recipient contract with the Durham Affordable Housing Coalition in an amount not to exceed the maximum sum of \$30,000 from Community Development Block Grant funds (CDBG) to provide homeownership education workshops; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SUB-RECIPIENT AGREEMENT, GENESIS HOME, INC. \$51,826
IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR
INFRASTRUCTURE IMPROVEMENTS – 300 N. QUEEN STREET**

Relative to Consent Items 21, 23, 25, 26 and 27-- Council Member Stith asked staff if the proper audit, proper accounting and proper paperwork have been completed for CDBG funds.

Constance Stancil, of Housing & Community Development, replied absolutely.

MOTION by Council Member Stith seconded by Council Member Clement to authorize the expenditure of CDBG funds in an amount not to exceed \$51,826; and

To execute a sub-recipient agreement with Genesis Home, Inc. to conduct structural improvements at their facility located at 300 N. Queen Street; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the

September 20, 2004

agreement was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT – GOOD WORK, INC.

MOTION by Council Member Stith seconded by Council Member Clement to authorize the expenditure of CDBG funds in an amount not to exceed \$55,000; and

To execute a sub-recipient agreement with Good Work, Inc. to conduct four (4) or more sets of “Building Your Business” courses, and four (4) or more sets of “Construyendo Su Negocio” courses to assist no fewer than one hundred low- moderate-income Durham residents who complete the training; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: ADOPTION OF THE FY 2003-2004 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

MOTION by Council Member Stith seconded by Council Member Clement to adopt the FY 2003-2004 Consolidated Annual Performance and Evaluation Report (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD) prior to the September 30, 2004 deadline was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT – CENTER FOR EMPLOYMENT TRAINING - \$55,000 IN COMMUNITY DEVELOPMENT BLOCK GRANTS FUNDS

MOTION by Council Member Stith seconded by Council Member Clement to authorize the expenditure of CDBG funds in an amount not to exceed \$55,000; and

To execute a sub-recipient agreement with Center for Employment Training to conduct job training and employment service activities for program participants who are at or below 50% of the HUD-determined area median income, as amended from time to time; and

September 20, 2004

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT, WOMEN-IN-ACTION FOR THE PREVENTION OF VIOLENCE AND ITS CAUSES, \$20,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

MOTION by Council Member Stith seconded by Council Member Clement to authorize the expenditure of CDGB funds in an amount not to exceed \$20,000; and

To execute a sub-recipient agreement with Women-In-Action for the Prevention of Violence and Its Causes to conduct informational service activities and resources and financial assistance; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT FOR CARTHAGE VILLAGE SUBDIVISION INFRASTRUCTURE WITH DURHAM COUNTY HABITAT FOR HUMANITY, INC.

MOTION by Council Member Stith seconded by Council Member Clement to authorize the expenditure of CDBG funds in an amount not to exceed \$231,983; and

To execute a sub-recipient agreement with Durham County Habitat for Humanity to install infrastructure improvements adjacent to the intersection of Holloway Street (HWY 98) and Junction Road in the vicinity Carthage Street; and

To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 20, 2004

[GENERAL BUSINESS AGENDA]

**SUBJECT: DURHAM POLICE DEPARTMENT CRIME REPORT JANUARY
2004 THROUGH JUNE 2004**

To receive the Crime Report for January 2004 through June 2004.

MOTION by Council Member Stith seconded by Council Member Catotti to refer this item to the October 4, 2004 City Council Meeting was approved at 9:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:09 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk